

ORDINANCE NO. 2019-090

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 70 ENTITLED "RETIREMENT AND PENSION", ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM, DIVISION 4 ENTITLED "MEMBERSHIP", DIVISION 5 ENTITLED "BENEFITS" AND DIVISION 7 ENTITLED DEFERRED RETIREMENT OPTION PROGRAM"; IMPLEMENTING THE CHANGES TO THE RETIREMENT PLAN CONTAINED IN RESOLUTION NO. 2019-064, RESOLVING THE IMPASSE IN COLLECTIVE BARGAINING NEGOTIATIONS BETWEEN THE CITY AND IAFF FOR FIREFIGHTER MEMBERS, IN PARTICULAR REVISING § 70-208 ENTITLED "PURCHASE OF MEMBERSHIP SERVICE CREDIT TIME"; REVISING § 70-210 ENTITLED "MEMBER CONTRIBUTIONS TO RETIREMENT PLAN"; REVISING § 70-238 ENTITLED "SERVICE RETIREMENT ALLOWANCE"; REVISING § 70-260 ENTITLED "ELIGIBILITY;" REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR PENALTIES HEREOF; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN INTERPRETATION AND SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 7, 2019 the City Council of the City of Hialeah adopted Resolution No. 2019-064 resolving the impasse in collective bargaining negotiations between the City of Hialeah (City) and the International Association of Fire Fighters, Local 1102 (IAFF), pursuant to the impasse resolution procedure set forth in Section 447.403, Florida Statutes; and

WHEREAS, in accordance with section 447.403, a tentative agreement was prepared which included those issues agreed to by the parties and those disputed impasse issues resolved by the City Council in Resolution No. 2019-064, and said agreement was submitted for ratification by members of the IAFF bargaining unit but was not ratified; and

WHEREAS, in accordance with section 447.403, the City Council's action in resolving the impasse shall take effect for the remainder of the first fiscal year which was the subject of negotiations; and

WHEREAS, among the issues resolved by Resolution No. 2019-064 were a number of changes to City Employees General Retirement System (Retirement System) affecting firefighters; and

WHEREAS, none of the Retirement System changes terminate the Retirement System or any portion of the Retirement System, nor are any of the Retirement System changes intended to terminate the Retirement System or any portion of the Retirement System; and

WHEREAS, the Retirement Plan changes are intended to meet the minimum benefits guaranteed firefighters by Chapter 175, Florida Statutes; and

WHEREAS, the City intends to continue to participate in the municipal firefighters retirement trust funded by the State from insurance premium tax revenues as provided by Chapter 175, Florida Statutes; and

WHEREAS, the City shall continue to make retirement contributions to the Retirement System sufficient to meet the normal cost of the plan and to amortize the unfunded liability as determined by the plan's actuary; and

WHEREAS, the plan's actuary has prepared a statement of the actuarial impact of the proposed benefit changes dated _____, 2019 and certified compliance with Part VII, of Chapter 112, Florida Statutes; and

WHEREAS, to implement the changes to the Retirement System it is necessary to adopt an ordinance amending said Retirement System; and

WHEREAS, the City has presented this ordinance to the Board of Trustees of the Retirement System for its review at its regular meeting of August 20, 2019 and

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 70 entitled "Retirement and Pensions", Article IV.

Employees General Retirement System is hereby amended as follows:

Chapter 70

RETIREMENT AND PENSIONS

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**ARTICLE IV. EMPLOYEES GENERAL
RETIREMENT SYSTEM**

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DIVISION 4. MEMBERSHIP

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Sec. 70-208. - Purchase of membership service credit time.

A member of the retirement system shall be permitted to purchase up to a maximum of four years of membership credit service time. The cost to buy the time shall be paid totally by the employee. The retirement board's actuary shall provide the city with the appropriate tables to ensure no cost to the retirement system or the city. Effective December 1, 2017, general employee members with less than 16 years of actual service with the city (excluding any service credit purchased pursuant to this section) and 62 points on that date shall be prohibited from purchasing membership credit service time. Effective December 1, 2017 for general employee members, the purchase of membership credit service time pursuant to this section shall be irrevocable, and any such member who has purchased membership credit service time shall be prohibited from selling such service time back to the retirement plan. Effective October 1, 2018, police officer members with less than 16 years of actual service with the city (excluding any service credit purchased pursuant to this section) and 66 points on that date shall be prohibited from purchasing membership credit service time, except that police officer members with 16 or more years of actual service with the city but less than 66 points on October 1, 2018 shall be eligible to purchase up to two years of membership credit service time upon reaching 25 years of actual service with the city (not to exceed a total maximum of four years of membership credit service time purchased altogether), contingent on paying the full actuarial cost of such membership credit service time and immediate separation from city employment. Effective October 1, 2018 for police officer members, the purchase of membership credit service time pursuant to this section shall be irrevocable, and any such member who has purchased membership credit service time shall be prohibited from selling such service time back to the retirement plan. Effective [insert effective date of ordinance], firefighter members shall be prohibited from purchasing membership credit service time. Any purchase of membership credit service time by a firefighter member made prior to [insert effective date of ordinance] pursuant to this section shall be irrevocable, and any such member who has purchased membership credit service time shall be prohibited from selling such service time back to the retirement plan.

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Sec. 70-210. Member contributions to retirement plan.

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(b) Firefighter members shall make pension contributions as follows:

(1) Effective October 1, 2013 through September 30, 2014, firefighter members hired prior to November 15, 2013 shall contribute five percent of compensation to the retirement plan. Effective October 1, 2014 and thereafter firefighter members shall contribute four percent of compensation to the retirement plan. If the retirement plan funding level as reported in the actuarial valuation, exceeds 80 percent, effective the month next following the actuarial valuation in which the funding level was reported, firefighter members shall contribute three percent of compensation to the retirement plan. If the retirement plan funding level as reported in the actuarial valuation, exceeds 100 percent, effective the month next following the actuarial valuation in which the funding level was reported, no member contribution shall be required.

(2) Notwithstanding paragraph (1) above, firefighter members who are eligible for full retirement benefits as of November 15, 2013 (i.e., members who have 20 years of credited service and 70 points when age plus years of credited service are combined) shall not be required to contribute to the retirement plan.

(3) Firefighter members hired on or after November 15, 2013 shall contribute four percent of compensation to the retirement plan. If the retirement plan funding level as reported in the actuarial valuation, exceeds 80 percent, effective the month next following the actuarial valuation in which the funding level was reported, firefighter members shall contribute three percent of compensation to the retirement plan. If the retirement plan funding level as reported in the actuarial valuation, exceeds 100 percent, effective the month next following the actuarial valuation in which the funding level was reported, no member contribution shall be required.

(5) Firefighter member contributions may be made in lieu of or in addition to annuity fund contributions as provided in section 70-203.

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DIVISION 5. BENEFITS

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Sec. 70-238. Service retirement allowance.

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(r) Notwithstanding any other provision of the retirement plan, the accrued benefits of all firefighter members, except as otherwise provided in subsection (t) below, shall be frozen on [insert effective date of ordinance], as provided herein. The frozen accrued benefit of each member who is employed and not participating in the DROP on [insert effective date of ordinance] shall be calculated based on the retirement plan provisions in effect on [insert date that is the day before effective date of ordinance], and each member's credited service and average final compensation on that date. All such members shall be 100% vested in the frozen accrued benefit earned prior to [insert effective date of ordinance], and shall be eligible to receive the frozen accrued benefit upon reaching the normal retirement date in effect prior to [insert effective date of ordinance] (the date on which a member's age plus years of credited service is equal to at least 70, or 76 for firefighter members hired on or after November 15, 2013, and the member has at least 20 years of credited service), and the member separates from City employment, or upon reaching eligibility for retirement in accordance with section 70-239. Such members shall accrue benefits on and after [insert effective date of ordinance] in accordance with subsection (s) below. Firefighter members who are employed, not participating in the DROP, and have not reached normal retirement eligibility prior to [insert effective date of ordinance], except as otherwise provided in subsection (t) below, shall be eligible for a retirement benefit in two parts: (1) the frozen accrued benefit based on the member's credited service, average final compensation and the retirement plan provisions in effect on [insert date that is the day before effective date of ordinance], payable upon entry into DROP or separation from City employment on or after the normal retirement date in effect on [insert date that is the day before effective date of ordinance]; and (2) the accrued benefit based on credited service and the retirement plan provisions in effect on and after [insert effective date of ordinance], payable upon entry into DROP at age 52 with 25 or more years of credited service, or upon separation from City employment on or after age 55 with 10 or more years of credited service or age 52 with 25 or more years of credited service.

(s) Notwithstanding any other provision of the retirement plan, firefighter members, except as otherwise provided in subsection (t) below, shall accrue benefits on and after [insert effective date of ordinance] in accordance with the provisions of the retirement plan

in effect on [insert date that is the day before effective date of ordinance], except as follows:

1. The benefit multiplier shall be 2.75% for credited service earned on and after [insert effective date of ordinance], and the 1.5% additional benefit multiplier for service after 25 years shall be eliminated.

2. The maximum benefit at retirement shall be 79.5% of average final compensation, and shall apply to benefits earned prior to and after [effective date of the ordinance]; provided, in no event shall a firefighter member's benefit (including the basic pension) be less than 2.75% of average final compensation for all years of credited service.

3. Average final compensation shall be the average of the highest annual compensation received by a member during the highest 5 years of credited service; provided, in no event will a member's average final compensation be less than the highest 3 year average as of [insert effective date of ordinance].

4. The normal retirement date shall be age 55 with 10 or more years of credited service or age 52 with 25 or more years of credited service.

5. Compensation shall be base pay only. All other types of compensation shall be excluded for retirement purposes.

6. There shall be no cost of living adjustment on benefits based on credited service earned on or after [insert effective date of ordinance].

7. Members shall not be eligible to purchase additional credited service pursuant to section 70-208 on or after [insert effective date of ordinance].

8. A member may enter the DROP upon attaining age 52 with 25 years of credited service.

(t) The provisions of subsections (r) and (s) above shall not apply to any firefighter member who reached normal retirement eligibility prior to [insert effective date of ordinance].

(u) Notwithstanding any other provision of the retirement plan, firefighter members who entered the DROP on or after February 28, 2016 and prior to [insert effective date of ordinance] shall have the option of extending their DROP participation period by up to two years, for a total maximum DROP participation period of five years. Firefighter members who entered the DROP on or after February 28, 2016, reached the 36 month maximum DROP participation period and separated from City employment, may apply for reemployment, and upon reemployment may reinstate

their DROP participation and City employment for up to a maximum of two additional years. Such members may be required to repay any benefits received from the retirement plan following separation from employment. The maximum DROP participation period shall be 36 months for firefighter members who enter the DROP on or after [insert effective date of ordinance].

(v) Notwithstanding any other provision of the retirement plan, in no event shall a firefighter member's benefit (including the basic pension) be less than 2.75% of average final compensation for all years of credited service.

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DIVISION 7. DEFERRED RETIREMENT OPTION PLAN (DROP)

Sec. 70-260. - Eligibility.

A member of the city's retirement system, except as provided in section 70-261, who is employed by the city may enter into the deferred retirement option program (DROP), on the first day of any month following completion of 25 years of membership service credit, provided that the sum of the member's age and years of service is 70 points or more; or for police officer members hired on or after March 2, 2014 and firefighter members hired on or after November 15, 2013, the sum of the member's age and years of service is 76 points or more. The member must have actually worked for at least 25 years of civil service and the member shall not be allowed to buy time in order to be eligible for the DROP. The maximum duration for participation in the DROP shall not exceed 36 months, and participation will end if the employee resigns, dies, or is terminated for good cause prior to completion of the 36 months. Participation in the DROP shall not violate section 70-237(2)b. of the Hialeah Code. Effective on the effective date of this ordinance, firefighter members must be in full duty status to elect to participate in the DROP, and DROP participation will end if such a member is placed on permanent light duty status. Effective on the effective date of this ordinance, police officer members must be in full duty status or temporary or permanent light duty status based on a job-related injury to elect to participate in the DROP, and DROP participation will end if such a member is placed on permanent light duty status for a nonjob-related injury. Notwithstanding any provision of this section, effective October 1, 2018 police officer members shall be eligible to participate in the DROP as provided in section 70-238, for up to five years; and

police officer members who are participating in the DROP on October 1, 2018 shall have the option of extending their DROP participation period by up to two years, for a total maximum DROP participation period of five years. Notwithstanding any provision of this section, firefighter members who entered the DROP on or after February 28, 2016 and prior to [insert effective date of ordinance] shall have the option of extending their DROP participation period by up to two years, for a total maximum DROP participation period of five years, as provided in section 70-238(u). The maximum DROP participation period shall be 36 months for firefighter members who enter the DROP on or after [insert effective date of the ordinance].

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Section 2: **Repeal of Ordinances in Conflict.** All ordinance or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: **Penalties.** Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: **Inclusion in Code.** The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: **Interpretation; Savings Clause.** In adopting this Ordinance, it is the intent of the City Council to give full effect to the pension plan changes contained in Resolution

No. 2019-064, resolving the impasse in collective bargaining negotiations between the City of Hialeah and the International Association of Fire Fighters, Local 1102. The City Council does not intend that the provisions of this Ordinance be interpreted as a plan termination as such term may be interpreted under Chapter 175, Florida Statutes, by a court of competent jurisdiction. If this Ordinance is declared to be a plan termination by a court of competent jurisdiction, it shall be declared null and void ab initio.

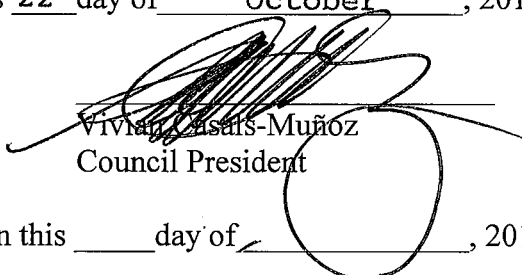
Section 6: Severability Clause. If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date. This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

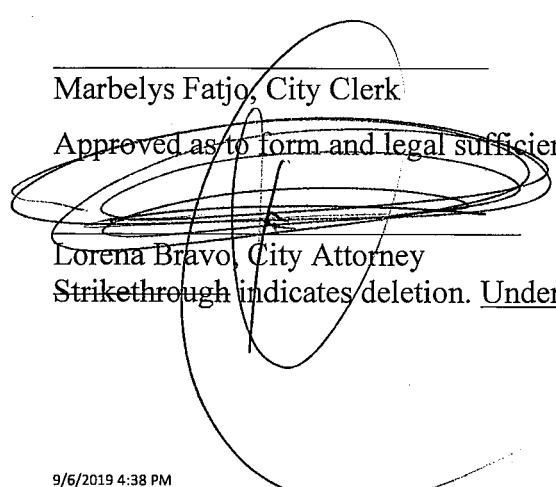
PASSED AND ADOPTED this 22 day of October, 2019.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL HEADING.

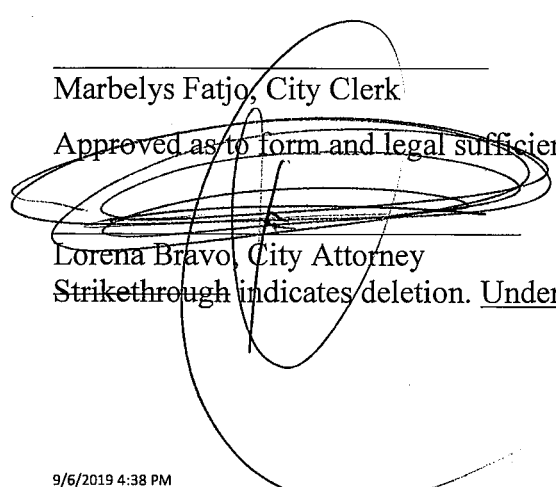
Attest:


Vivian Casals-Munoz
Council President

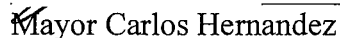
Approved on this _____ day of _____, 2019.


Marbelys Fatjo, City Clerk

Approved as to form and legal sufficiency:


Lorena Bravo, City Attorney

Strikethrough indicates deletion. Underline indicates addition.


Mayor Carlos Hernandez

**Mayor's Signature
Withheld**

Ordinance was adopted by a 5-1-1 vote with Councilmembers, Caragol, Zogby, Hernandez, Garcia-Martinez and Cue-Fuente voting "Yes", Casals-Munoz voting "No" and with Councilmember Lozano absent.